STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

AMEREN TRANSMISSION COMPANY OF ILLINOIS	)	
	)	
Petition for a Certificate of Public Convenience and Necessity, pursuant to Section 8-406.1 of the Illinois Public Utilities Act, and an Order pursuant to Section 8-503 of the Public Utilities Act, to Construct, Operate and Maintain a New High Voltage Electric Service Line and Related Facilities in the Counties of Adams, Brown, Cass, Champaign, Christian, Clark, Coles, Edgar, Fulton, Macon, Montgomery, Morgan, Moultrie, Pike, Sangamon, Schuyler, Scott and Shelby, Illinois.	)	Docket No. 12-0598

MOTION TO STRIKE
PORTIONS OF CERTAIN INTERVENORS' DIRECT TESTIMONY AND FOR AN EXPEDITED RULING

Ameren Transmission Company of Illinois ("ATXI"), pursuant to Section 200.190 and 200.680 of the Illinois Commerce Commission's Rules of Practice, 83 Ill. Adm. Code §§ 200.190, 200.610(a) and 200.680, respectfully requests a ruling striking portions of the testimony filed by certain intervenors on March 29, 2013. Rule 200.610(a) requires the Commission to exclude "irrelevant, immaterial, unduly repetitious evidence," while Rule 200.680 empowers the Commission to exclude all "otherwise inadmissible evidence" on motion or objection. 83 Ill. Adm. Code §§ 200.610(a), 200.680.

Striking the following inadmissible portions of written testimony prior to hearing will facilitate the efficiency of the evidentiary process and will help preserve the integrity of the evidentiary record in this matter:

- Donna Allen, pp. 2:33 ("the Allen family and the Dawson family"); 6:135–36; 6:139–41; 7:174–85, Ex. 3, & Ex. 4; 9:218–21 & Ex. 5.
- Perry Baird, pp. 3:29–37, 4:46–54, 4:58–5:68 ("the DAHNKE PINE . . . . Service (Point (F))."); 6:110–7:121; 7:122–8:136; 8:137–48; 8:149–57; 9:158–15:295.
- Paul Bergschneider, pp. 1:22–2:24, 2:38–3:57–63, 4:85–5:98, 8:169–9:196, 10:204–07.

- Leon Corzine, ¶ 6(2)–(4) and ¶ 8.
- Bruce Daily, pp. 2:8–3:22.
- Larry Durbin, pp. 3:74–75 ("and the land . . . County Property Owners"), 4:90–92.
- Barbara File, Louise Brock-Jones Ltd. Partnership, pp. 2:82–3:95.
- Stuart Kaiser, pp. 3–4 (the phrase "and would decimate the people at the dairy farm and along their property" and all testimony beginning with the question on page three, "Please identify any other party . . . ," through and including the first "Yes" on page four).
- David Lewis, pp. 3:70–81.
- Michael Lockwood, p. 3, questions 8 and 9 and the answers to same.
- Melvin Loos, pp. 3:83–4:96.
- Brent Mast, p. 4:95–102.
- Dr. Magdi Ragheb, p. 16:321–38.
- Margaret Sue Snedeker, pp. 3:39–40; 4:61–5:82.

For those portions of testimony for which only a page and line-number range is given, ATXI seeks to strike the following: the sentence beginning on the first line number cited up to and including the sentence ending on the last line number cited.

ARGUMENT

A number of intervenor witnesses purport to represent the views or positions of other parties or entities with respect to the Illinois Rivers Project ("Project"). This is impermissible for a number of reasons. In those instances in which the witness testifies to the views or positions held by another person, the testimony constitutes inadmissible hearsay. And in all these instances, these witnesses (*1*) lack standing to represent the interests of the third party and (*2*) engage in the unauthorized practice of law in attempting to represent those interests. For these

reasons, as explained more fully below, the Commission should strike the testimony referenced in the Motion.

A. Testimony purporting to represent the views of another person constitutes inadmissible hearsay.

Hearsay is inadmissible under the Illinois Rules of Evidence. Ill. R. Evid. 802. Hearsay is a statement, "other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." *Id*. 801(c). Hearsay is excluded from evidence primarily because the lack of opportunity to cross-examine the declarant renders the statement unreliable. *See People v. Peoples*, 377 Ill. App. 3d 978, 983 (1st Dist. 2007) (*citing People v. Jura*, 352 Ill. App. 3d 1080, 1085 (2004)).

An out-of-court statement offered for its truth remains inadmissible even when it is quoted or otherwise attached to testimony; "regardless of its format, the presentation [involving hearsay] is inherently unreliable, offers no opportunity for cross-examination, [and] is unauthenticated." *Aqua Illinois, Inc.*, Docket 04-0442, Final Order, p. 43, n. 4 (Apr. 20, 2005). The Commission has recognized the dangers of allowing any witness to speak for the views of another. "[T]he facts [to be relied upon by the Commission] must be capable of being tested through cross-examination," but hearsay is essentially the "selective[] recit[ation]" of the views of a person who the adverse party is "not able to cross-examine." *Ill. Commerce Comm. on Its Own Motion*, Docket 90-0038, 1990 Ill. PUC LEXIS 640, at *51 (1990).

In addition to violating the rules of evidence, the lack of opportunity to cross-examine can also raise due process problems. "Consideration of this evidence at this point in time, without allowing Staff the opportunity to cross-examine [the non-testifying proponent] as to the information therein, contravenes due process." *Ill. Commerce Comm. on Its Own Motion v. N. Ill. Gas Co.*, Docket 02-0170, 2003 Ill. PUC LEXIS 682, at *36 (2003); *cf. WPS Energy*

Services, Inc., Docket 00-0199, 2001 Ill. PUC LEXIS 597, at *70-71 (May 9, 2001) ("With regard to due process concerns, the Commission notes that WPS received, among other things, . . . an opportunity to present evidence and to cross-examine the Staff witness")

Part 610(b) of the Commission's Rules of Practice does not establish an exception to the hearsay rule. *See* Ill. Adm. Code § 200.610(b) ("evidence not admissible under such rules may be admitted if it is of a type commonly relied on by reasonable prudent persons in the conduct of their affairs"). Instead, the rule is applicable to "proffered evidence generally, and not solely to evidence subject to the hearsay rule." *Ill. Comm. Comm'n on its Own Motion*, Docket 03-0596, Administrative Law Judge's Ruling, p. 1 (Feb. 27, 2004). Rule 610(b) allows the Commission to consider "whether reasonably knowledgeable persons have staked the outcome of their affairs on the reliability of the information" sought to be admitted. *Id.* Therefore, the appropriate inquiry is whether prudent persons in commerce, government, and the utility industry commonly use the challenged information for the purposes for which the movant offers that information in the case. *Id.*

B. Witnesses have standing only to represent their own interests; they lack standing to raise the interests of others.

Numerous parties have also attempted to raise issues on behalf of other persons or on behalf of properties that they assert no ownership interest in. These parties lack standing to assert such rights and interests, and it follows that their testimony should be struck to the extent that they raise such issues.

1. The doctrine of standing applies in Commission proceedings and limits what issues a party may raise.

In general, "[t]he doctrine of standing is designed to preclude persons who have no interest in a controversy from bringing suit." *Raintree Homes, Inc. v. Vill. of Long Grove*, 209 Ill.2d 248, 262 (2004). "'[I]nterested' does not mean merely having a curiosity about or a

concern for the outcome of the controversy. Rather, the party seeking relief must possess a personal claim, status, or right which is capable of being affected." *Underground Contractors Assn. v. Chicago*, 66 Ill.2d 371, 376 (1977). In other words, "[s]tanding . . . requires some injury in fact to a legally recognized interest, and a prospective party cannot gain standing merely through a self-proclaimed concern about an issue, no matter how sincere." *Landmarks Preservation Council v. Chicago*, 125 Ill.2d 164, 175 (1988)

The doctrine of standing applies in Commission proceedings. *See, e.g.*, *Ill. Commerce Comm. on Its Own Motion*, Docket 01-0539, 2004 Ill. PUC LEXIS 1, at *192 (2004) (holding where a certain carrier was "totally unaffected by the penalties imposed on [other] carriers . . . . it does not have standing to contest the penalties imposed on those carriers"); *In re Application of Commonwealth Edison Co.*, Docket 02-0838, 2004 Ill. PUC LEXIS 438, at *14–15 (2004) (rejecting petition to intervene and noting, *inter alia*, that petitioner "lack[ed] standing to assert [a certain privilege] over statements" of another); *ACORN v. Peoples Gas*, Docket 01-0317, 2001 Ill. PUC LEXIS 1027, at *5–7 (2001) (dismissing complaint where "the record indicates that ACORN has filed its complaint seeking relief for its various members, and is not seeking redress for itself as a utility customer" and finding that "ACORN does not have standing to represent its class members").

As the Commission (and others) have recognized, one of the core problems with allowing another party to exercise a third party's interest is that the third party might not *want* their "claim" to be raised. The Commission recognized that "when a customer's own interests are directly at stake" the customer has "standing to pursue a complaint." *Citizens Utility Board v. Ill. Bell Tel. Co.*, Docket 00-0043, 2001 Ill. PUC LEXIS 124, at *17 & fn. 4 (2001). But "[t]his does not mean that the interests of a provider can be asserted by an unaffiliated customer" as the

third party "may have sound business reasons for not lodging a complaint against another and, therefore, should not be involuntarily entangled in litigation by an unaffiliated party." *Id*. *See also, e.g.*, *Singleton v. Wulff*, 428 U.S. 106, 113–14 (1976) ("courts must hesitate before resolving a controversy . . . on the basis of the rights of third persons not parties to the litigation . . . [because] it may be that in fact the holders of those rights . . . do not wish to assert them").

2. Among other things, a party must have a direct interest in a property to represent it.

While standing arises in many different contexts, the inquiry always comes back to whether the particular plaintiff has a *personal* interest in the *specific* claim being raised. "A party must assert its own legal rights and interests, rather than base a claim for relief upon the rights of third parties." *Commercial Credit Loans v. Espinoza*, 293 Ill.App.3d 923, 929 (Ill. App. Ct. 1st Dist. 1997). For instance, courts of appeal have observed that appellants, who had standing to appeal on their own behalf, "lack standing to appeal . . . to the extent that they are appealing on behalf of [other parties]." *JPMorgan Chase Bank, N.A. v. Wemple*, 396 Ill.App.3d 88, 94 (Ill. App. Ct. 1st Dist. 2009). Likewise, "[a] party has standing to challenge the constitutionality of a statute only insofar as it adversely impacts his or her own rights." *People v. Funches*, 212 Ill.2d 334, 346 (2004).

Thus, when property rights are at issue, a legally enforceable interest *in the affected property* is essential. For example, in *Landmarks Preservation Council*, "neither [of the association] litigants nor their members have a legally cognizable stake in the status of [a particular property]. None is an owner of this private property or even an owner of adjoining property. As far as we are aware, none has any protectable right to even use the building." *Id*. Therefore, the parties lacked standing. Likewise, in *Westwood Forum v. City of Springfield*, 261

Ill.App.3d 911, 921–22 (Ill. App. Ct. 4th Dist. 1994), the court affirmed a lower court holding that a pair of associations "did not have standing" to challenge a zoning decision. Even though the associations asserted that "their individual members are owners of land adjacent to the property to be rezoned and whose property values will be diminished because of the rezoning," the associations could not sue. *Id*. at 922. "[A]n association does not have standing based on its representational capacity alone . . . . [but] must have a recognizable interest in the dispute which is peculiar to itself and capable of being affected." *Id*. The associations, however, "do not own any property and are not in the business of owning or selling property," and therefore had no right to bring the suit.

These holdings are merely illustrative of many others confirming that a party must have an interest in a property before it may represent the interests of the property owner. *See, e.g.*, *Geja's Cafe v. Metropolitan Pier & Exposition Authority*, 153 Ill.2d 239, 263 (1992) ("[A]s plaintiffs admit, none of them owns property within the site [affected by the challenged law]. Consequently, they do not have standing to raise the issue."); *Deutsche Bank Nat'l Trust Co. v. Gilbert*, 2012 IL App (2d) 120164, P17 (Ill. App. Ct. 2d Dist. 2012) (bank "lacked standing when the [foreclosure] suit was filed" when it "did not have an interest in the mortgage"); *Cable TV & Communications Assn. v. Ameritech Corp.*, 288 Ill.App.3d 354, 357 (Ill. App. Ct. 2d Dist. 1997) (association lacks standing unless it has "a personal claim related to its own property"); *Indian Hill Neighbors' Assn. v. American Cablesystems of Illinois*, 171 Ill.App.3d 789, 792 (Ill. App. Ct. 1st Dist. 1988) ("Illinois courts have consistently held that a party seeking relief must establish that he has a direct, personal claim related to his own property or that he will suffer injury in his individual capacity to a substantive, legally protected interest"); *Lake County Forest Preserve District v. First National Bank of Waukegan*, 213 Ill.App.3d 309, 314 (1991)

("to challenge a taking, one must have a property interest affected, and one not alleging a property interest affected has no standing to challenge a taking").

3. Striking the testimony for which standing is lacking is an appropriate remedy.

A motion to strike is an appropriate remedy when a party lacks standing to present the claim or allegation contained in the pleading. *Porter v. Klein Constr. Co.*, 162 Ill. App.3d 1, 3 (Ill. App. Ct. 1st Dist. 1987) (affirming the lower court's grant of a "motion to strike the petition to vacate on the ground that petitioner lacked standing"); *Westgate Terrace Community Associates, Inc. v. Burger King Corp.*, 66 Ill.App.3d 721, 727 (Ill. App. Ct. 1st Dist. 1978) ("As we have found that plaintiff does not have standing to sue with respect to count I of the amended complaint, we hold that the trial court did not err in striking count I and dismissing it with prejudice"); *see also United States v. Twenty MILJAM-350 IED Jammers*, 669 F.3d 78, 91 (2d Cir. 2011) (the "district court correctly granted the government's motion to strike . . . on the ground of [a party's] lack of standing").

C. Representing the interests of others in a legal proceeding, without a license or an attorney-client relationship, constitutes the unauthorized practice of law.

Finally, to the extent witnesses in this case have sought to represent the legal interests of other persons in this proceeding, they have engaged in the unauthorized practice of law.

"The law requires that all who represent others in courts of law be attorneys-at-law. A layman may appear only in his own behalf." *City of Chicago v. Witvoet*, 12 Ill.App.3d 654, 655 (1973); *see also, e.g.*, *Downtown Disposal Services v. City of Chicago*, 2012 IL 112040, 979 N.E.2d 50, ¶ 42 (citation omitted) ("Because of the prohibition against the unauthorized practice of law, our court has long recognized that no person is permitted to commence an action in an Illinois court of record on behalf of another unless he or she is an attorney. A lay person may appear only in his or her own behalf.").

1. Appearing and presenting the views of another person are core elements of the practice of law.

While one may dispute at the margin whether certain actions constitute the practice of law, there is no clearer example of the practice than to appear in formal proceedings before a legal tribunal and file written pleadings that represent the interests of another person. "Activities performed by an individual considered to be the 'practice of law' include . . . appearing in court or before tribunals representing one of the parties . . . and preparing evidence, documents and pleadings to be presented." *Grafner v. Dept. of Employment Secretary*, 393 Ill.App.3d 791, 798 (2009); *see also People ex rel. Chicago Bar Assn. v. Tinkoff*, 399 Ill. 282, 288 (1948) (practice of law includes "appear[ing] in a court representing one of the parties to the litigation" and "select[ing] the kind of pleading and draft[ing] it"). The rule applies throughout the proceedings and includes the drafting and filing of complaints and other pleadings; "[t]he prohibition against the unauthorized practice of law does not differentiate between pretrial and trial practice." *People v. Dunson*, 316 Ill.App.3d 760, 764 (2000).

2. These principles apply in Commission proceedings.

These principles apply to persons appearing before agencies, *see, e.g.*, *Downtown Disposal Services v. City of Chicago*, 2012 IL 112040, ¶ 19 ("when [a non-attorney] filed the complaints for administrative review, he engaged in the unauthorized practice of law"). The Commission's rules specifically confirm that laypersons may not represent others' interests in legal disputes before the Commission, a point expressly made by the Administrative Law Judges at the pre-hearing conferences. (*See* Tr. 130-31.) While "[a] natural person may appear in his or her own behalf," 83 Ill. Adm. Code 200.90(b), "[o]nly persons admitted to practice as attorneys and counsellors at law shall represent others in proceedings before this Commission in any matter involving the exercise of legal skill or knowledge," *id*. 200.90(c). As the

Commission has recognized, this rule "only allows licensed attorneys to represent others in proceedings before the Commission in any matter involving the exercise of legal skill or knowledge." *ACORN v. Peoples Gas*, Docket 01-0317, 2001 Ill. PUC LEXIS 1027, at *5–6 (2001).

The Commission routinely dismisses or rejects efforts by non-lawyers to represent to the interests of other persons. For example, in *ACORN*, the Commission found that an appropriate remedy was to dismiss a complaint "pursuant to 83 Ill. Adm. Code Sec. 200.90, which allows only attorneys to represent others in proceedings before the Commission in any matter involving the exercise of legal skill or knowledge." *Id*. at *7. Likewise, the Commission held that a hearing examiner properly "on her own motion moved to dismiss the complaint of [a party]," *inter alia*, "for its failure to comply with 83 Ill. Adm. Code 200.90, which provides that a corporation involved in Commission proceedings pertaining to legal issues must be represented by an attorney." *Midwest Film Corp. v. Commonwealth Edison Co.*, Docket 95-0562, 1998 Ill. PUC LEXIS 149, at *2 (1998); *see also, e.g.*, *Diersen v. Commonwealth Edison Co.*, Docket 99-0063, 2001 Ill. PUC LEXIS 1110, at *2 (2001) ("Complainant, a non-attorney, sought leave from the Commission to represent 59 of his neighbors in this proceeding . . . . The Commission denied the Complainant's request[]"); *Glenview Consulting Group v. Commonwealth Edison Co.*, Docket 94-0209, 1996 Ill. PUC LEXIS 28, at *3 (1996).

3. Under these principles, witnesses must be barred from attempting to represent the interests of other persons in this case.

If the harsher remedy of dismissal is an appropriate response to the attempted unauthorized practice of law, *a priori*, the lesser remedy of striking the offensive portions of a witness's testimony is also appropriate. These principles confirm that when a lay witness

attempts to represent the interests of another, they not only lack standing, but engage in the unauthorized practice of law.

Moreover, a witness's status as an attorney does not necessarily cure ethical problems unless there is, in fact, an attorney-client relationship. Lawyers do not have free rein to represent whomever they want, whenever they want, toward whatever end they want. *See also, e.g.*, Ill. Rule of Prof. Responsibility 1.2(a) ("[A] lawyer shall abide by a client's decisions concerning the objectives of representation and . . . shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation."). Thus, even a witness who is a lawyer may not represent the legal interests of non-clients.

D. The Commission should strike the testimony identified in this Motion.

The legal principles discussed above require that the testimony identified below be struck. In the first category listed, the witness purports to represent the interests of other persons or entities. Like the first, the second category also includes witnesses purporting to represent the interests of others, and these witnesses *also* purport to offer testimony on behalf of that person.

Testimony Purporting to Represent the Interests of Others:

- Perry Baird, p. 3:29–37, 4:46–54, 4:58–5:68 (purporting to represent interests and offer testimony on behalf of Dahnke's Pine Patch, JDL Broadcasting, Inc., "a rural neighborhood near Marshall, Illinois," Quality Lime Co., and the United States of America and various agencies); 6:110–7:121 (purporting to represent interests and offer testimony on behalf of Dahnke's Pine Patch); 7:122–8:136 (purporting to represent interests and offer testimony on behalf of JDL Broadcasting, Inc.); 8:137–48 (purporting to represent interests and offer testimony on behalf of Marshall-Area Rural Neighborhood); 8:149–57 (purporting to represent interests and offer testimony on behalf of Quality Lime Co.); 9:158–15:295 (purporting to represent interests of the United States of America, various agencies, various property owners and to introduce related exhibits).

- Paul Bergschneider, p. 3:57–63 (purporting to represent interests of Illinois State Archaeological Survey and Panhandle Eastern Pipeline Company).

- Leon Corzine, ¶ 6(2)–(3) (purporting to represent views of "other farmers and landowners").

- Larry Durbin, p. 3:74–75 (purporting to represent the interests of "the land of most, if not all, of my neighbors").

- Stuart Kaiser, p. 3 (purporting to represent interests of "people at the dairy farm and . . . their property").

- Michael Lockwood, p. 3, questions 8 and 9 (purporting to represent interests of "other landowners in the area," "other individuals," "[f]uture owners of this property," and "[m]y neighbors on all sides").

- Dr. Magdi Ragheb, p. 16:321–38 (purporting to represent interests of "area farmers and/or landowners" and "other intervenors").

- Margaret Sue Snedeker, p. 3:39–40 (purporting to represent interests of "Renner Family Cemetary [sic]"); p. 4:61–5:82 (purporting to represent interests of 99 persons, including specifically the interests of Chris Dashiell, Tom Kuykendall, Gary Lackey, and Ron and Paula Eldridge).

Testimony Purporting to Represent the Interests of *and* to Testify on Behalf of Others:

- Donna Allen, p. 2:31–33 (purporting to represent interests of "the Allen family [apparently a family in addition to herself, her husband, and her children] and the Dawson family"); p. 6:135–36 (purporting to testify on behalf of "[m]ost residents in the area"); 6:139–41 (purporting to testify on behalf of "our neighbors to the north"); 7:174–85, Ex. 3, & Ex. 4 (purporting to represent interests of "our neighbors to the north," "several individuals," and "two families"); 9:218–21 & Ex. 5 (purporting to testify on behalf of Federal Highway Authority).

- Paul Bergschneider, p. 1:22–2:24, 2:38–3:57, 4:85–5:98, 8:169–9:196, 10:204–07 (purporting to offer "testimony as a representative of the group [that would otherwise represent 18 unique intervenors]").

- Leon Corzine, ¶ 6(4) (purporting to testify to the views of "most legislators") and ¶ 8 (purporting to represent positions of seed corn company and banker).

- Bruce Daily, p. 2:8–3:22 (purporting to represent interests of seven other persons or entities besides himself).

- Larry Durbin, p. 4:90–92 (purporting to represent interests and to testify on behalf of "neighbors and friends").

- Barbara File, Louise Brock-Jones Ltd. Partnership, p. 2:82–3:95 (purporting to testify on behalf of two tenant farmers).

- Stuart Kaiser, pp. 3–4 (purporting to testify on behalf of Michael Perkins, Stanley Brinkman, and "everybody involved").
- David Lewis, p. 3:70–81 (purporting to testify on behalf of tenant farmer Keith Flesner).
- Melvin Loos, pp. 3:83–4:96 (purporting to testify on behalf of "a tenant on the property").
- Brent Mast, p. 4:95–102 (purporting to testify on behalf of brother Steve Mast).

In each cited portion of testimony cited above, the witness does one or both of the following: (*1*) offers an out-of-court statement to establish the truth of the matter asserted and (*2*) purports to represent the personal or property interests of another.

As for those witnesses purporting to testify on behalf of others, these witnesses are presenting hearsay, which is generally inadmissible. The point for which the cited testimony is offered is that *the declarant opposes the project*, meaning that the statements are offered for their truth. Because ATXI will have no opportunity to cross-examine these declarants, the hearsay is unreliable and must be excluded.

As for all of the witnesses, all of whom purport to represent the interests of another person or another person's property, these witnesses lack standing to offer such testimony. Moreover, with the exception of witness Baird, even if the witness had the third party's consent to represent his or her position, the witness would be practicing law without a license. And given that witness Baird does not claim the existence of an attorney-client relationship with any of the various entities he purports to represent, his testimony presents similar ethical problems. In fact, Mr. Baird has admitted in discovery that he does *not* represent the United States of America (*see* attached Exhibit A, ATXI-STPL D.R. Response 2.53) and has not even communicated with the majority of the persons referenced in his testimony (*see id*. 2.63–.72 (Mr. Baird "has not had any communications" with Quality Lime Company, Tarble Limestone

Enterprises, Carolyn Robinson, Stephen Robins, Lesley Ann Robinson, Gregory T. Robinson, Aimee Susan Janssen-Robinson, the U.S. Attorney General, the U.S. Attorney for the Southern District of Illinois, Marietta J Martin, Thomas W. Burnside, Donald J. Ockerman, Kenneth L. Halcomb, Clyde Busse, George Carl Barth or Heather Leonore Barth")). If Mr. Baird has not even communicated with the referenced parties, it follows that he cannot be authorized to represent them. Therefore, all of the cited testimony should be excluded.

The bottom line is that all of the foregoing testimony suffers from at least two or all three of these problems—hearsay, lack of standing, and unauthorized practice of law—and therefore, all of the cited portions must be excluded. ATXI is not seeking to deprive these witnesses of their day in court, only to prevent them from commandeering someone else's.

E. Request for an Expedited Ruling.

As the ALJs know, ATXI's rebuttal testimony is due April 26. In the interests of administrative efficiency and due fairness, ATXI requests an expedited ruling on this Motion in order that ATXI may have the opportunity to know how best to prepare its rebuttal case. ATXI accordingly recommends that the respondents be ordered to reply by April 19 and ATXI to reply by April 22.

CONCLUSION

For the reasons set forth above, ATXI respectfully requests that the Commission grant its Motion to Strike.

Dated: April 17, 2013

Respectfully submitted,

Ameren Transmission Company of Illinois

/s/ Albert D. Sturtevant

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CERTIFICATE OF SERVICE

I, Albert D. Sturtevant, an attorney, certify that on April 17, 2013, I caused a copy of the foregoing *Motion to Strike Portions of Certain Intervenors' Direct Testimony and for an Expedited Ruling* to be served by electronic mail to the individuals on the Commission's Service List for Docket 12-0598.

/s/ Albert D. Sturtevant

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